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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,731	09/17/2003	Pierre Charbonneau	2996-1B	2641
23863	7590	02/14/2006	EXAMINER	
LESPERANCE & MARTINEAU 1440 WEST STE-CATHERINE ROOM 700 MONTREAL, QC H3G1R8 CANADA			FOX, CHARLES A	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/663,731	CHARBONNEAU ET AL.	
	Examiner	Art Unit	
	Charles A. Fox	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20030917</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what "a play" is referring to in line 4. Also it is not clear what position allows the wheel to engage the rail in a different manner. Clarification is required. In the rejections of claims 2 and 8 below the claims are treated as allowing play between the wheel and the rail.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al. in view of Krug and further in view of Hall et al. regarding claims 1-3,7,8,15 and 16 Scott et al. CP 2,098,433 teaches a racking system comprising:

an elongated lane defining opposite front and rear ends;

at least one spaced apart pair of rails (140,142), running along the length of said lane and inclined downwards towards the front of said lane;

at least one cart (20,22,24) rollably carried by said rails;

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wherein when a plurality of carts are used they have different vertical heights relative to one another;

said at least one cart having wheels on each side thereof for engagement with said rails. Scott et al. do not teach the rails as having inclined walls meeting at a top edge or wheels to mate with such a rail. Krug US 4,245,561 teaches a conveying device comprising:

at least one pair of rails (12,13), where said rails have two inclined side walls ending in a common top edge;

a plurality of wheels (25,26) for engagement with said rails;

wherein said rails are diamond shaped. Krug does not teach the wheels as having a center web between the walls for engaging the rail. Hall et al. US 5,524,776 teaches a rack system comprising:

a pair of rails(42);

a cart (40) with a plurality of wheels (72) for engaging said rails;

wherein said wheels have a center web and two angled flanges;

wherein said shape of wheels allow for play between the wheel and the rail. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Scott et al. with rails as taught by Krug in order to align the cart on the rails and to further provide the wheels as taught by Hall et al. in order to allow the device to operate even if the rails and wheels are not positively aligned.

Regarding claims 4 and 10 Scott et al. further teach that the at least one cart is U-shaped, with two longitudinally extending side members ((26,42,52) and a cross member (28,44,54) located at a first end of each longitudinal member.

Regarding claim 5 Scott et al. further teach the system as having a second cart rollable along said at least one pair of rails.

Regarding claim 6 Scott et al. also teach a barrier member at the front of said lane for preventing the carts from rolling out of said rack.

Regarding claim 9 Scott et al. further teach said rail pairs(140,142) have different vertical heights.

Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scott et al., Krug and Hall et al. as applied to claim 10 above, and further in view of Sullivan. Regarding claims 11 and 12 Scott et al., Krug and Hall et al. teach the limitations of claim 10 as above they do not teach providing each lane with four carts. Sullivan US 6,158,943 teaches a push back rack storage system comprising:

- at least one lane for storing palletized goods;

- a set of parallel rails (42,43) with upper and lower rolling surfaces;

- a first (61) and second(62) cart which roll along the lower rail surfaces;

- a third (63) and a fourth (64) cart which roll along the upper rail surfaces;

wherein the front wheels of said second and fourth carts ride the rails between the front and back wheels of the first and third carts respectively. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Scott et al., Krug and Hall et al. with four carts as taught by Sullivan in order

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to allow the device to hold more palletized goods in each lane, thereby increasing the loaded density of the system.

Regarding claims 13 and 14 Scott et al. further teach abutment members at the front of the device to keep the carts from rolling out of the device as well as interacting members between the carts for cooperative movement of the carts while they are being loaded. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the same cooperative movement means taught by Scott et al. when modifying the system for four carts as taught by Sullivan in order for the fourth car to function properly with the first three carts.

The prior art made of record and not relied upon but considered pertinent to applicant's disclosure is: High 1885, Strohmeyer 1978, Freeman et al. 1980, Gay 1992, Hammond 1996, Krummell, Jr. 2000 and Gorniak et al. 2005.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles A. Fox 2-8-06
Charles A. Fox
Examiner
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